

**Bernalillo County, New Mexico**

**Noise Ordinance**

**Bernalillo County Code Chapter 30, Environment; Article IV, Noise.**

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**Sec. 30-111. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A band level* means the total sound level of all noise as measured with a sound level meter using the A-weighting network. The unit is the dB(A).

*Ambient noise* means the all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources near and far excluding the specific noise under investigation.

*Band pressure level (of a sound for a specified frequency band)* means the sound pressure level for the sound contained within the restricted band.

*Commercial use of amplifying equipment (commercial purpose)* means the use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business; any goods; any services; for the purpose of attracting the attention of the public to; advertising for; soliciting patronage or customers to; for any performance, show, entertainment, exhibition, political campaign, or event; or for the purpose of demonstrating any such sound equipment.

*Cycle* means the complete sequence of values of a periodic quantity which occurs during a period.

*Daytime* means from sunrise to sunset, as recorded by the United States Weather Bureau.

*Decibel (dB)* means a unit of level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio. The reference is 0.0002 dynes per square centimeter.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger, health and safety.

*Frequency* (of a function periodic in time) means the reciprocal of the primitive period. The unit is the cycle per unit time and shall be specified.

*Hertz* means a unit which mean cycles per second.

*Microbar* means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

*Motor vehicles* means every vehicle which is self-propelled and every vehicle which is propelled by electrical power obtained from overhead trolley wires, but not operated upon rails.

*Motorcycle* means every motor vehicle having a seat or saddle for use by the rider and designed to travel on any number of wheels in contact with the ground, including every motor scooter and motor driven cycle, minibike, all-terrain vehicle, four-wheeler, but excluding a tractor.

*Nighttime* means from sunset to sunrise as recorded by the United States Weather Bureau.

*Noncommercial use of amplifying equipment* means the use, operation or maintenance of any sound amplifying equipment for other than a commercial purpose. Noncommercial purpose shall mean and include, but shall not be limited to, philanthropic, patriotic and charitable purposes.

*Period (of a periodic quantity)* means the smallest increment of time for which the function repeats itself.

*Periodic quantity* means oscillating quantity, the values of which recur for equal increments of time.

*Sound amplifying equipment* means any machine or device for the amplification of the human voice, music, or any other sound. Sound amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound amplifying equipment shall not

include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

*Sound analyzer* means a device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.

*Sound-level meter* means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

*Sound pressure level (in decibels, of a sound)* means 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure shall be explicitly stated.

*Sound truck* means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon, or attached thereto, any sound amplifying equipment.

*Spectrum (of a function of time)* means a description of its resolution into components, each of a different frequency.

*Zones* means zones and boundaries of zones as established by the county's zoning ordinance.

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***(Ord. No. 137, § II, 12-20-71; Ord. No. 04-21, § 1, 12-14-04)***

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**Cross reference—Definitions generally, § 1-2.**

**Sec. 30-112. - Penalty for violation of article.**

Except as otherwise stated in this article, violations of this article are punishable as provided in section 1-6. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this article, which operation or maintenance causes discomfort or annoyance to persons or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

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***(Ord. No. 137, §§ XXVII, XXVIII, 12-20-71)***

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**Sec. 30-113. - Declaration of article policy.**

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It is hereby declared to be the policy of the county to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interest shall be systematically prescribed.

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**(Ord. No. 137, § I, 12-20-71)**

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**Sec. 30-114. - Decibel measurement criteria.**

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Any decibel measurement made pursuant to the provisions of this article shall be based on a reference sound pressure of 0.002 microbars, as measured in any octave band with center frequency, in hertz (cycles per second) as follows: 63; 125; 250; 500; 1,000; 4,000; and 8,000 or as measured with a sound level meter using the A-weighting.

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**(Ord. No. 137, § III, 12-20-71)**

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**Sec. 30-115. - General sound level.**

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Except as otherwise provided in this article, no person shall make or continue, cause to be made or continued, or allow to be made or continued, any sound resulting in an exceedance of the following limits as measured on any other property receiving the sound:

<b>Decibels</b>	<b>Time</b>	<b>Zone</b>
<b>45 dB(A)</b>	<b>nighttime</b>	<b>residential</b>
<b>55 dB(A)</b>	<b>daytime</b>	<b>residential</b>
<b>60 dB(A)</b>	<b>nighttime</b>	<b>commercial and special use permits issued for commercial purposes</b>
<b>65 dB(A)</b>	<b>daytime</b>	<b>commercial and special use permits issued for commercial purposes</b>
<b>70 dB(A)</b>	<b>nighttime</b>	<b>Industrial</b>
<b>75 dB(A)</b>	<b>daytime</b>	<b>Industrial</b>

Sound projecting from property of one land use category onto property of another land use category having a lower sound level limit shall not exceed the limits for the property of the land use category onto which it is projected.

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**(Ord. No. 137, § IV, 12-20-71; Ord. No. 04-21, § 1, 12-14-04)**

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**Sec. 30-116. - Noise regulation generally.**

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**(a)**

Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any person residing in the area.

(b)

The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

(1)

The volume of the noise;

(2)

The intensity of the noise;

(3)

Whether the nature of the noise is usual or unusual;

(4)

Whether the origin of the noise is natural or unnatural;

(5)

The volume and intensity of the background noise, if any;

(6)

The proximity of the noise to residential sleeping facilities;

(7)

The nature and zoning of the area within which the noise emanates;

(8)

The density of the inhabitation of the area within which the noise emanates;

(9)

The time of the day or night the noise occurs;

(10)

The duration of the noise;

(11)

Whether the noise is recurrent, intermittent or constant; and

(12)

Whether the noise is produced by a commercial or noncommercial activity.

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**(Ord. No. 137, § XXVI, 12-20-71)**

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**Sec. 30-117. - Radios, television sets and similar devices.**

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(a)

*Use restricted.* It shall be unlawful for any person within any zone of the county to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing or amplifying of sound between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day, in such a manner as to disturb the peace, quiet and comfort of neighboring residents in the area.

(b)

*Prima facie violation.* Any noise exceeding the ambient noise level at the property line of any property (or, if a condominium or apartment house, within any adjoining apartment) by more than five decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section.

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**(Ord. No. 137, § V, 12-20-71)**

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**Sec. 30-118. - Hawkers and peddlers.**

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It shall be unlawful for any person within the county to advertise for sale anything by public outcry within any area of the county zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

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**(Ord. No. 137, § VI, 12-20-71)**

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**Sec. 30-119. - Schools, hospitals, churches and libraries.**

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It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, or other institutions of learning or church, while the same is in use or adjacent to any hospital, which noise unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets, sidewalk or public place indicating the presence of a school, church, hospital or library.

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**(Ord. No. 137, § VIII, 12-20-71)**

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**Sec. 30-120. - Animals and fowl.**

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No person shall keep or maintain, or permit the keeping of upon any premises owned, occupied or controlled by such person, any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavioral noise for an unusual length of time, shall cause annoyance or discomfort to a person residing in any residential neighborhood.

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**(Ord. No. 137, § IX, 12-20-71)**

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**Cross reference—Animals disturbing the peace, § 6-42.**

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**Sec. 30-121. - Machinery, equipment, fans and air conditioning.**

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It shall be unlawful for any person to operate, cause to operate or permit to operate any machinery, equipment, device, pump, fan, compressor, air conditioning apparatus or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the general sound level limits listed in section 30-115 of this article. Maintenance work not able to be completed during normal daylight hours and emergency work shall need no permit.

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**(Ord. No. 137, § X, 12-20-71; Ord. No. 04-21, § 1, 12-14-04)**

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**Sec. 30-122. - Construction of buildings and projects.**

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It shall be unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other construction type device (between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day) in such a manner that a person residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the county manager. No permit shall be required to perform maintenance work not able to be completed during normal working hours and emergency work.

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**(Ord. No. 137, § XI, 12-20-71)**

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**Cross reference—Buildings and building regulations, ch. 10.**

**Sec. 30-123. - Vehicles.**

**(a)**

*Vehicle repairs.* It shall be unlawful for any person within any residential area of the county to repair, rebuild or test any motor vehicle between the hours of 7:00 p.m. of one day and 8:00 a.m. of the next day in such a manner that a person residing in that area is caused discomfort or annoyance.

**(b)**

*Motor-driven vehicles.* Motor-driven vehicle restrictions are as follows:

**(1)**

It shall be unlawful for any person to operate any motor-driven vehicle within the county in such a manner that a person residing in the area is caused discomfort or annoyance.

**(2)**

It shall be unlawful for any person to operate any motor of a motor vehicle of a weight in excess of four tons (8,000 pounds) for a consecutive period longer than two minutes while such vehicle is standing on private property and located within 150 feet of property zoned and used for residential purposes, except where such vehicle is standing within a completely enclosed structure or delivering to stores

perishable foods or pouring concrete and emergency maintenance work. This subsection shall not apply to buses operated for the transportation of passengers while standing in established bus turnarounds, bus terminals, bus parking lots and bus storage yards.

(3)

No person shall sell, or offer for sale, a new motor vehicle that produces a maximum noise exceeding the following noise limit at a distance of 50 feet from the centerline of travel under test procedures established by subsection (b)(9) of this section:

	Type of Vehicle	Date of Manufacture	Noise Limit (in dB(A))
a.	Motorcycle	before January 1, 1970	92
	Same	after January 1, 1970	88
	Same	after January 1, 1973	86
	Same	after January 1, 1975	84
	Same	after January 1, 1980	75
b.	Any motor vehicle with a gross vehicle weight of 8,000 pounds or more	after January 1, 1968	88
	Same	after January 1, 1973	86
	Same	after January 1, 1975	84
	Same	after January 1, 1980	80
c.	Passenger cars, motor-driven cycle and any other motor vehicle	before January 1, 1973	86
	Same	after January 1, 1973	84
	Same	after January 1, 1975	80
	Same	after January 1, 1980	80

(4)

No person shall operate within the speed limits specified in this section either a motor vehicle or combination of vehicles of a type subject to registration at any time or under any condition of grade, load, acceleration or deceleration in such manner as to exceed the following noise limits for the category of motor vehicles, based on a distance of not



less than 50 feet from the centerline of travel under test procedures established by subsection (b)(10) of this section:

Type of Vehicle		Noise Limit in Relation to Posted Speed Limit	
		35 mph or less	Over 35 mph
a.	Any motor vehicle with a manufacturer's GVW rating of 8,000 pounds or more, and any combination of vehicles towed by such motor vehicle		
	Before January 1, 1973	88 dB(A)	90 dB(A)
	After January 1, 1973	86 dB(A)	90 dB(A)
b.	Any motorcycle other than a motor-driven cycle		
	Before January 1, 1978	82 dB(A)	86 dB(A)
	After January 1, 1978	78 dB(A)	82 dB(A)
c.	Any other motor vehicle and any combination of motor vehicle towed by such motor vehicle		
	After January 1, 1970	76 dB(A)	82 dB(A)
	After January 1, 1978	70 dB(A)	79 dB(A)

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Code relating to motor vehicle mufflers for noise control.

(5)

No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the motor vehicle as originally manufactured. Procedures used to establish compliance with this subsection (b)(5) shall be those used to establish compliance of a new motor vehicle with the requirements of this article.

(6)

No person shall sell or offer for sale a new motor-driven recreational or off-highway vehicle, including dune buggies, snowmobiles, all-terrain vehicles, go-carts, and minibikes, that produces a maximum noise exceeding the following noise limit at a distance of 50 feet from the centerline of travel under test procedures established by subsection (b)(11) of this section:

Type of Vehicle	Date of Manufacture	Noise Limit (in dB(A))
Snowmobile	after January 1, 1971	86
Same	after June 1, 1972	82
Same	after June 1, 1974	73
Any other vehicle, including dune buggy, all-terrain vehicle, go-cart, minibike	after January 1, 1971 after January 1, 1973 after January 1, 1975	86 82 73

(7)

It shall be unlawful for any person to operate a motor-driven vehicle of a type not subject to registration for road use, at any time or under any condition of load, acceleration or deceleration, in such a manner as to exceed the following noise limit at any point on property zoned for business or residential use at a distance of not less than 50 feet from the path of travel:

Before January 1, 1973	86 dB(A)
After January 1, 1973	82 dB(A)

(8)

The operational performance standards established by this article shall not apply to any public performance or public service being conducted in accordance with the provisions of a special permit granted by the county manager for the conduct of a public performance or public service.

(9)

Test procedures to determine whether maximum noise emitted by new motor vehicles sold or offered for sale meet the noise limits stated in subsection (b)(3) of this section shall be in substantial conformity with standards and recommended practice established by the Society of Automotive Engineers, Inc., including SAE Standard J331; SAE Recommended Practice J184; SAE Recommended Practice J366; SAE Standard J1470 and such other and further standards as may be propounded by the county department of environmental health.

(10)

Test procedures to determine whether maximum noise emitted by motor vehicles in use meet the noise limits stated in subsection (b)(4) of this section shall be in substantial conformity with standards and recommended practice established by the Society of Automotive Engineers, Inc., including SAE Standard J986; SAE Standard J331; Recommended Practice J366; Recommended Practice J184; and such other and further standards as may be propounded by the county department of environmental health.

(11)

Test procedures to determine whether maximum noise emitted by new motor-driven recreational off-highway vehicles including dune buggies, snowmobiles, all-terrain vehicles, go-carts, and minibikes meet the noise limits stated in subsections (b)(6) and (b)(7) of this section shall be in substantial conformity with standards and recommended practice established by the Society of Automotive Engineers, Inc., including SAE Standard J331; SAE Standard J986; SAE Recommended Practice J184; and such other and further standards as may be propounded by the county department of environmental health.

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**(Ord. No. 137, §§ XII, XIII, 12-20-71; Ord. No. 04-21, § 1, 12-14-04)**

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**Cross reference—Traffic and vehicles, ch. 82.**

**Sec. 30-124. - Loudspeakers or sound amplification equipment—Registration.**

**(a)**

*Required.* It shall be unlawful for any person, other than personnel of law enforcement or government agencies, to install, use or operate within the county a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in or upon any street, alley, sidewalk, park or public property without first filing a registration statement and obtaining approval as set forth in this article.

**(b)**

*Registration statements; filing.* Every user of sound amplifying equipment on public property shall file a registration statement with the permits and licenses division of the clerk of the county at least one working day prior to the date on which the sound amplifying equipment is intended to be used, which statement shall contain the following information:

**(1)**

The name, address and telephone number of both the owner and user of the sound amplifying equipment;

**(2)**

The maximum sound producing power of the sound amplifying equipment shall include the wattage to be used, the volume in decibels of sound which will be produced, and the approximate distance for which sound will be audible for the sound amplifying equipment;

**(3)**

The license number if a sound truck is to be used; and

**(4)**

A general description of the sound amplifying equipment which is to be used.

**(c)**

*Approval.* The permits and licenses division shall return to the applicant an approved certified copy of the registration statement unless it finds that:

- (1)  
The conditions of the motor vehicle movement are such that the use of the equipment would constitute a detriment to traffic safety.
- (2)  
The conditions of pedestrian movement are such that use of the equipment would constitute an unreasonable interference with traffic.
- (3)  
The registration statement required reveals that the applicant would violate the provisions set forth in this article or any other provisions of this Code.

(d)  
*Disapproval.* If the registration statement is disapproved, the permits and licenses division shall endorse upon the statement its reasons for disapproval and return it forthwith to the applicant.

(e)  
*Appeals.* Any person aggrieved by disapproval of a registration statement may appeal to the county commission by filing a written notification with the county manager or his authorized representative within ten days from the date the statement is mailed or given to the applicant. The county manager or his authorized representative shall consider the appeal within the time and in the manner as provided for appeals from actions of the permits and licenses division generally.

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**(Ord. No. 137, §§ XV—XVII, 12-20-71)**

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**Sec. 30-125. - Same—Regulations.**

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The commercial and noncommercial use of sound amplifying equipment shall be subject to the following regulations:

- (1)  
The only sounds permitted shall be either music or human speech, or both.
- (2)  
The operation of sound amplifying equipment shall only occur between the hours of 8:00 a.m. and 10:00 p.m. each day. No operation of sound amplifying equipment for commercial purposes shall be permitted on Sundays or legal holidays.
- (3)  
No sound emanating from sound amplifying equipment shall exceed 15 dB(A) above the ambient as measured at any property line.
- (4)  
Notwithstanding the provisions of subsection (3) of this section, sound amplifying equipment for commercial purposes shall not be operated within 200 feet of churches, schools and hospitals.
- (5)

In any event, the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

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**(Ord. No. 137, § XIX, 12-20-71)**

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**Sec. 30-126. - Horns and signaling devices.**

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The sounding of any horn, signaling device, or theft device/alarm on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the county, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any device for an unnecessary and unreasonable period of time shall be considered in violation of this article. The use of any signaling device when traffic is for any reason held up shall be exempt from prosecution.

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**(Ord. No. 137, § XX(2), 12-20-71; Ord. No. 04-21, § 1, 12-14-04)**

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**Sec. 30-127. - Aircraft.**

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**(a)**

*Excessive sound prohibited.* It shall be unlawful for any person to operate or cause to be operated any type of aircraft over the county which produces noise levels exceeding 90 dB(A) within the county.

**(b)**

*Exception.* Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations shall be exempt from the provisions of this section as well as the other regulations of this article. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt from the provisions of this section as well as the other regulations of this article.

**(c)**

*Jet engine testing.* It shall be unlawful for any person to operate, run up or test or cause to be operated, run up or tested an aircraft jet engine which creates a noise level of 50 dB(A) or more at any place within an inhabited residential zone of the county between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day. The intent of this subsection is to regulate the noise levels produced in the testing, maintenance and repairing of jet engines and jet aircraft in the nighttime hours to the extent such levels exceed 50 dB(A) within any inhabited area of the county. Any jet engine operating within an aircraft during a landing, takeoff or while moving upon the ground surface of an airport shall be exempt from the provisions of this subsection.

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**(Ord. No. 137, §§ XXI—XXV, 12-20-71)**

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**Secs. 30-128—30-150. - Reserved.**

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